## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:22-CT-3319-M-RJ

PIERRE JAMAR WALKER,	
Plaintiff, )	
v. )	ORDER
PAMELA F. GALBREATH, et al.,	
Defendants.	

This matter is before the court on plaintiff's motion for reconsideration [D.E. 27] of the court's January 17, 2024, order dismissing formerly named defendant John Herring ("Herring"). Plaintiff seeks reinstatement of Herring as a defendant in this action. "Motions for reconsideration of interlocutory orders are not subject to the strict standards applicable to motions for reconsideration of a final judgment[,]" but instead are "committed to the discretion of the district court." American Canoe Ass'n v. Murphy Farms, Inc., 326 F.3d 505, 514–15 (4th Cir. 2003).

Plaintiff provides additional information alleging Herring was aware of the danger a fellow inmate presented to plaintiff. (Mot. [D.E. 27] at 1–2). However, Herring continued to house plaintiff in the same unit as the fellow inmate, leading to plaintiff being assaulted. (Id.). Accordingly, at this preliminary stage, the court finds plaintiff has stated an individual capacity claim for failure to protect against Herring. See Farmer v. Brennan, 511 U.S. 825, 833 (1994) ("[P]rison officials have a duty . . . to protect prisoners from violence at the hands of other

prisoners."); <u>Makdessi v. Fields</u>, 789 F.3d 126, 132- 33 (4th Cir. 2015) (providing standard for failure to protect claim).

Based on the reasons stated above, plaintiff's motion for reconsideration [D.E. 27] is GRANTED. The clerk is DIRECTED to reinstate John Herring as a defendant in this matter. As to defendant Herring, the court DIRECTS the clerk to continue management of the action pursuant to Standing Order 14-SO-02. Should it become necessary, the court DIRECTS the United States Marshals Service to proceed with service of process pursuant to 28 U.S.C. § 1915(d). The operative complaint in this matter is comprised of the complaint at docket entry 16 and docket entry 27.

RICHARD E. MYERS II

Chief United States District Judge